

AN ACT

RELATING TO PRIVATE SEWAGE DISPOSAL SYSTEM INSPECTIONS AND
GROUNDWATER HAZARD STATEMENTS AS PART OF CERTAIN PROPERTY
TRANSFERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 455B.172, subsection 11, paragraph a, subparagraph (2), Code Supplement 2009, is amended to read as follows:

(2) A transfer to a mortgagee by a mortgagor or successor in interest who is in default, ~~or a transfer by a mortgagee who has acquired real property at a sale conducted pursuant to chapter 654 as a result of a deed in lieu of foreclosure or has acquired real property under chapter 654 or 655A, or a transfer back to a mortgagor exercising a right of first refusal pursuant to section 654.16A, a nonjudicial voluntary foreclosure procedure under section 654.18 or chapter 655A, or a deed in lieu of foreclosure under section 654.19.~~

Sec. 2. Section 455B.172, subsection 11, paragraph a, Code Supplement 2009, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (7) A transfer in which the transferee intends to demolish or raze the building. The department shall adopt rules pertaining to such transfers.

NEW SUBPARAGRAPH. (8) A transfer of property with a system that was installed not more than two years prior to the date of the transfer.

NEW SUBPARAGRAPH. (9) A deed arising from a partition proceeding.

NEW SUBPARAGRAPH. (10) A tax sale deed issued by the county treasurer.

Sec. 3. Section 455B.172, subsection 11, paragraph b, Code Supplement 2009, is amended by striking the paragraph.

Sec. 4. Section 455B.172, subsection 11, paragraphs d, h, and i, Code Supplement 2009, are amended to read as follows:

d. If a private sewage disposal system is failing to ensure effective wastewater treatment or is otherwise improperly functioning, the private sewage disposal system shall be renovated to meet current construction standards, as adopted by the department, either by the seller or, by agreement, and within a reasonable time period as determined by the county board of health or the department, by the buyer. If the private sewage disposal system is properly treating the wastewater and not creating an unsanitary condition in the environment at the time of inspection, the system is not required to meet current construction standards.

h. Following an inspection, the inspection form and any ~~related reports~~ attachments shall be provided to the county board of health and the department for enforcement of any follow-up mandatory system improvement and to the department for record.

i. An inspection is valid for a period of two years for any ownership transfers during that period. ~~Title abstracts to property with private sewage disposal systems shall include documentation of the requirements in this subsection.~~

Sec. 5. Section 455B.172, subsection 11, Code Supplement 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. *j.* This subsection preempts any city or county ordinance related to the inspection of private sewage disposal systems in association with the transfer of ownership of a building.

Sec. 6. Section 558.69, Code 2009, is amended to read as follows:

558.69 Reporting of private burial sites, wells, disposal sites, underground storage tanks, and hazardous waste, and private sewage disposal systems — liability.

1. With each declaration of value submitted to the county recorder under chapter 428A, there shall ~~also~~ be submitted a groundwater hazard statement regarding whether stating all of

the following:

a. Whether any known private burial site is situated on the property, and if a known private burial site is situated on the property, the statement shall state the approximate location of the site. ~~The statement shall also state that~~

b. That no known wells are situated on the property, or if known wells are situated on the property, the statement must state the approximate location of each known well and its status with respect to section 455B.190 or 460.302. ~~The statement shall also state that~~

c. That no known disposal site for solid waste, as defined in section 455B.301, which has been deemed to be potentially hazardous by the department of natural resources, exists on the property, or if such a known disposal site does exist, the location of the site on the property. ~~The statement shall additionally state that~~

d. That no known underground storage tank, as defined in section 455B.471, subsection 11, exists on the property, or if a known underground storage tank does exist, the type and size of the tank, and any known substance in the tank. ~~The statement shall also state that~~

e. That no known hazardous waste as defined in section 455B.411, subsection 3, or listed by the department pursuant to section 455B.412, subsection 1, exists on the property, or if known hazardous waste does exist, that the waste is being managed in accordance with rules adopted by the department of natural resources.

f. That no known private sewage disposal system exists on the property or, if such private sewage disposal system exists, that the system has been inspected pursuant to section 455B.172, subsection 11, or that the property is not subject to inspection due to its exclusion from a regulated transfer pursuant to section 455B.172, subsection 11, paragraph "a".

2. The groundwater hazard statement shall be signed by at least one of the sellers or their agents.

3. The county recorder shall refuse to record any deed,

instrument, or writing for which a declaration of value is required under chapter 428A unless the groundwater hazard statement required by this section has been submitted to the county recorder.

4. A buyer of property shall be provided with a copy of the submitted groundwater hazard statement by the seller submitted, ~~and, following the fulfillment of this provision, if the statement submitted reveals no private burial site, well, disposal site, underground storage tank, or hazardous waste on the property, the county recorder may destroy the statement.~~

5. The land application of sludges or soils resulting from the remediation of underground storage tank releases accomplished in compliance with department of natural resources rules without a permit is not required to be reported as the disposal of solid waste or hazardous waste.

~~If a declaration of value is not required, the above information shall be submitted on a separate form.~~

6. The director of the department of natural resources shall prescribe the form of the groundwater hazard statement ~~and the separate form to be supplied by each county recorder in the state.~~

7. The county recorder shall transmit the groundwater hazard statements to the department of natural resources at times and in a manner directed by the director of the department.

8. The owner of the property is responsible for the accuracy of the information submitted on the ~~form~~ groundwater hazard statement. The owner's agent shall not be liable for the accuracy of information provided by the owner of the property. The provisions of this ~~paragraph~~ subsection do not limit liability which may be imposed under a contract or under any other law.

Sec. 7. Section 558A.1, subsection 4, paragraph b, Code 2009, is amended to read as follows:

b. A transfer to a mortgagee by a mortgagor or successor in interest who is in default, ~~or~~ a transfer by a mortgagee who has

~~acquired real property at a sale conducted pursuant to chapter 654 as a result of a deed in lieu of foreclosure or has acquired real property under chapter 654 or 655A, or a transfer back to a mortgagor exercising a right of first refusal pursuant to section 654.16A, a nonjudicial voluntary foreclosure procedure under section 654.18 or chapter 655A, or a deed in lieu of foreclosure under section 654.19.~~

PATRICK J. MURPHY
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2437, Eighty-third General Assembly.

MARK BRANDSGARD
Chief Clerk of the House

Approved _____, 2010

CHESTER J. CULVER
Governor